

Attachment C

Policy 1.1.10 Outdoor Dining on South Murphy Avenue

POLICY PURPOSE:

The purpose of this policy is to regulate the type, location and appearance of long-term outdoor dining uses on South Murphy Avenue where the public right-of-way is to be utilized. These guidelines have been developed specifically for, and are unique to the 100 block of South Murphy Avenue. The policy does not apply to outdoor dining on private property, nor to eating establishments located elsewhere in the City. The City is committed to the restoration of Murphy Avenue to its original character as Sunnyvale's Main Street. A major theme or objective of the development plan includes promotion of outdoor activities such as dining.

The Administrative Use Permit and Encroachment Permit process will regulate the operation of outdoor dining areas in a public right-of-way. The policy guidelines establish criteria for the review of each application by the Director of Community Development. The policy is intended to (1) ensure pedestrian and fire lane access, (2) prevent a cluttered appearance; and (3) promote an attractive commercial environment.

POLICY STATEMENT:

The following guidelines will be considered in the review of applications for long-term use of the public right-of-way on South Murphy Avenue for outdoor dining uses.

A. USES

1. Proposed outdoor dining uses shall be directly related to the main commercial use, and operated by the same personnel. Each use is subject to Use Permit approval at an Administrative Hearing.
2. The initial permit granted to an establishment shall be for a limited period of 12 months. This is to provide an evaluation period.
3. The Use Permit, once activated through compliance with conditions imposed by the Director of Community Development, shall become null and void if the property is not used for such purpose for a period of one year or more.

B. LOCATION

1. ~~To allow the use of the public right-of-way by the eating establishment, the Director of Community Development may issue the Encroachment Permit as part of the Administrative Use Permit process. (To allow the Director such authority, a change in the Municipal Code must be made.) In making such a decision, the Director will consider public safety issues such as pedestrian movement,~~

~~emergency vehicle access, traffic movement and visibility, interference with the public use of property, and access to public utilities and street furniture.~~

- ~~2. Issuance of an Encroachment Permit may be conditioned as deemed necessary to protect the public interest. The approval of an Encroachment Permit may be revoked at any time with a ten (10) day notice, except that revocation may be immediate in case of a threat to public safety or an immediate need for public use of the property. At such time as an Encroachment Permit is revoked, the related Use Permit approval will also be voided.~~
3. The accessory use shall be adjacent to the building the business occupies, and is not allowed in any parking lot, landscaped area, loading or fire zone. The use shall not encroach upon the frontage of neighboring businesses, except when the street is closed to vehicular traffic for outdoor public events (such as the summer Wednesday night Music and Market, the Saturday Farmers Market, and the Art and Wine festival). The business must obtain both written approval from those neighboring businesses and provide liability insurance to cover the outdoor dining in front of those neighboring businesses.
4. The accessory use shall not obstruct pedestrian movement or access from any doorway, as determined by the Fire Prevention Division. At least five (5) six (6) feet of pedestrian clearance shall be provided around the use. The five (5) six feet may include adjacent available public sidewalks.
5. The accessory use shall not block access points to pedestrian crosswalks, and shall be located at least fifteen (15) feet from any driveway or fire hydrant. The 40-foot clear corner sight triangle shall be kept free of all obstructions.
6. A single permit may be issued for an eating establishment which occupies more than one adjacent parcel, or for two separate eating establishments on adjacent parcels that wish to operate a single outdoor dining facility.

C. APPEARANCE

Furniture

1. Tables with individual chairs are required for outdoor dining (no bench seating). Each table shall be setup to accommodate no more than four (4) persons.
2. Tables and chairs shall be of either metal or wood construction. Table tops shall be round, or have more than four sides. Tables and chairs shall not have legs or braces which protrude, creating a hazard for passers by.
3. Umbrellas which are free-standing or Sun-shades used as part of the table assembly, must be open on all sides with no unprotected protrusions around the its perimeter, and shall be permitted to extend up to eight feet as measured from ground level.

4. No overhead structures, other than individual-table umbrellas ~~are or canopies is~~ allowed.
5. ~~Freestanding umbrellas shall be made to be safely weighted down (not be permanently secured) to the public sidewalk, so they will not become a safety hazard to the public.~~
6. ~~Freestanding umbrella bases shall be made to be aesthetically compatible with the historic nature of Murphy Avenue.~~
- 5.7. The permittee holds the responsibility to maintain the outdoor furnishings in a safe and attractive condition.

Other Physical Accessories

1. Lighting fixtures, area delineation accessories, planters or any other furnishings used in conjunction with outdoor dining shall be subject to the review process prior to issuance of the Use Permit.

Table Service Ware

1. ~~Table cloths, placemats, and napkins shall not be made of paper.~~
2. Service ware (i.e. plates, cups, utensils) shall not be made of paper or plastic.

Aesthetic

A standard on aesthetics is appropriate and desirable to assure that sidewalk encroachments compliment, rather than detract from, the Murphy Avenue streetscape. The applicant must submit detailed design plans for staff review and comment. General guidelines to be used in the review would include:

1. The outdoor dining furniture shall be reasonably compatible in scale, design and color with the character of the building facade and adjacent structures.
 - a. The dining area should have a coordinated color scheme, preferably, consisting of no more than two colors.
 - b. Canvas is the preferred material for umbrellas. Stationary metal shades are unacceptable. Any graphics on sun shades should be uncluttered in design. Type styles and logos should relate to the existing architectural style of Murphy Avenue.

Structural Upgrading

To further the City's efforts to revitalize Murphy Avenue, certain structural standards relating to the facade of the eating establishment must be met before outdoor dining will be allowed on the public right-of-way. These guidelines are consistent with those found in the Murphy Avenue Design Guidelines adopted in 1994 ~~design plan adopted~~ in 1981; and represent the minimal conditions expected.

1. Paint: Harmonious color and appropriate to the streetscape.
2. Storefront Windows: Large window areas to illuminate the interior, and to allow views of the street.
3. Signage: Appropriate size and material, reflective of the general character of Murphy Avenue in design and color.

If appropriate, other improvements may be required to rooflines, tile work, doors, awnings, or other architectural details to ensure their compatibility and acceptable condition.

D. OTHER REGULATORY CONSIDERATIONS

Smoking Ordinance

1. For the purpose of determining applicability of the smoking ordinance to the eating establishment (i.e. occupied capacity of over fifty people), the outdoor seating must be considered in calculating total capacity.
2. Eating establishments must provide ashtrays on all tables for restaurant patrons.

Food Service

The following are regulations set forth by the Santa Clara Health Department. With regard to outdoor dining, non-conformance to these standards will result in the revocation of the City's Use Permit.

1. Food preparation must take place inside the eating establishment only.
2. No outside food displays are allowed.
3. Condiments must be kept in closed containers (ketchup bottles, squeeze bottle, individual packets).

Serving of Alcoholic Beverages

Alcoholic Beverage Control (ABC) imposes the following stipulations for serving alcohol in outdoor eating areas. Failure to comply with all applicable ABC standards will result in the revocation of the Use Permit.

1. Alcoholic beverages may only be served in outdoor areas which are contiguous to the eating establishment (i.e. the area must not be separated from the restaurant by a public sidewalk).
2. The restaurant operator must provide a visual barrier or delineation to distinguish the outdoor serving area from the public walkway.
3. Alcoholic drinks may not be prepared (mixed) in the outdoor area.

4. Physical conditions must allow visual monitoring of alcohol consumption from within the establishment, or the establishment must provide regular waiter/waitress service to the outdoor area.

ABC requires that the licensee obtain approval for premise expansion. The licensee must show evidence that the City has issued the Use Permit. Issuance of a Use Permit to an establishment intending to serve alcoholic beverages in the encroachment area will include a condition that the permittee provides a copy of the ABC approval to the Planning Division within 45 days after the service begins.

Insurance

Because the dining will occur in a public right-of-way, the Encroachment Permit will require special liability insurance.

(Adopted: RTC 87-199 (4/14/87))